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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/036,304 Confirmation No.: 2753

Applicant(s): Burnhouse et al.

Filed: 12/28/2001

Art Unit: 2682

Examiner: Milord, Marceau

Title: Data Transfer Rate Display Selection

Attorney Docket No.: 871.0103.U1 (US)

Customer No.: 29,683

Commissioner For Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Response To Office Action

Sir:

This is in response to the Office Action mailed 7/7/2004 in regard to the above-identified patent application. Claims 1-21 were rejected under 35 U.S.C. §102(b) as being anticipated by Walsh (US 6,144,848). The examiner is requested to reconsider this rejection.

The examiner stated:

"Regarding claim 1, Walsh et al discloses a system (figs. 1-3) for displaying data transfer rates on a display comprising: a system for displaying the transfer rates in an alphanumeric mode or an alternative graphics mode (col. 3, line 40- col. 4, line 8; (col. 17, line 5- col. 18, line 41), and a system for switching between displaying the transfer rates in the alphanumeric mode and the graphics mode (col. 4, lines 10-47; col. 17, line 5- col. 18, line 41; col. 35, line 21- col. 36, line 26)."

Applicants' attorney has reviewed Walsh in detail. Walsh does not suggest, much less "anticipate", applicants' claimed

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invention. The sections cited by the examiner do not disclose a system for switching between displaying data transfer rates in an alphanumeric mode and a graphics mode as recited in claim 1. Walsh appears to be silent regarding how a data transfer rate is displayed. Since Walsh appears to be silent regarding how a data transfer rate is displayed, it certainly does not "anticipate" a system for switching between displaying data transfer rates in an alphanumeric mode and a graphics mode as recited in claim 1. Nor do the sections cited by the examiner "anticipate" the features recited in the other independent claims; claims 8, 11, 17 and 21. The features recited in the independent claims are not disclosed in Walsh et al. and, thus, are not "anticipated" by Walsh et al. The examiner is requested to reconsider his rejection.

Though dependent claims 1-7, 9-10, 12-16 and 18-20 contain their own allowable subject matter, these claims should at least be allowable due to their dependence from allowable claims 1, 8, 11 and 17, respectively. However, to expedite prosecution at this time, no further comment will be made.

In regard to section 1 of the office action, the abstract has been reviewed. There appears to be nothing wrong with it.

In regard to section 2 of the office action, claim 7 has not been changed. There is nothing wrong with putting a claim dependency in the body of the claim rather than in a preamble of a claim; especially when the claim is easier to understand when the claim dependency in the body of the claim. Claim 7 would be understood by a person skilled in the art. Applicants' attorney is unaware of any rule in the USPTO which

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requires a claim dependency to be in a preamble of a claim rather than in a body of a claim. The examiner is requested to withdraw his objection to claim 7.

For all of the foregoing reasons, it is respectfully submitted that all of the claims now present in the application are clearly novel and patentable over the prior art of record. Accordingly, favorable reconsideration and allowance is respectfully requested. Should any unresolved issue remain, the examiner is invited to call applicants' attorney at the telephone number indicated below.

Respectfully submitted,

Mark F. Harrington

Mark F. Harrington (Reg. No. 31,686)

8/3/04

Date

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CERTIFICATION OF FACSIMILE TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.

8/3/04
Date

Clairie F. Harrington
Name of Person Making Deposit